

# EXHIBIT A

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059634
Party	Defendant Freud America, Inc.
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Date	01/14/2016
Attachments	Freud's Second Motion to Amend Registration.pdf(14774 bytes )

In the Matter of Registration Nos. 2,464,769 and 4,028,314

Registrant.

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) **Cancellation No. 92,059,634**  
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Pursuant to Section 18 of the Trademark Act, 15 U.S.C. § 1068, 37 C.F.R. § 2.133 and Section 514 of the Trademark Board Manual of Procedures, Registrant Freud America, Inc. (“Freud”), through its attorneys, hereby respectfully moves the Board to amend Registration No. 2,464,769, specifically the identification of goods therein, solely in the event that the Board deems such amendment necessary to dismiss the cancellation. On November 17, 2015, Freud filed a motion to amend both registrations at issue in this case (Dkt. 20). In this motion, Freud withdraws the proposed amendments that it sought in its motion of November 17, 2015 and seeks a revised amendment to the identification of goods in Registration No. 2,464,769. Freud is no longer seeking any amendment to the identification of goods in Registration No. 4,028,314.

Freud requests that the Board defer its decision on this motion until it considers the overall merits of the present cancellation proceeding. *See Embarcadero Technologies, Inc. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1828 (TTAB 2013) (deferring action on defendant's motion to amend until final decision); *Space Base Inc. v. Stadis Corp.*, 17 U.S.P.Q.2d 1216 (TTAB 1990) (same).

Freud maintains that no amendment to the identification of goods in Reg. No. 2,464,769 is necessary for the Board to uphold the registration and dismiss the cancellation. If, however, the Board ultimately finds that Freud is not entitled to registration in the absence of a restriction to the identification of goods in the subject registration, then Freud requests, as a Section 18 affirmative defense, the following changes to the identification of goods in Reg. No. 2,464,769 (proposed new language underlined):

“cutting tools for power woodworking machines, namely shaper cutters, saw blades excluding reciprocating saw blades and jigsaw blades, router bits and forestner bits.”

Such that the identification of goods would be amended to:

“cutting tools for power woodworking machines, namely shaper cutters, saw blades excluding reciprocating saw blades and jigsaw blades, router bits and forestner bits.”

As grounds for this motion, Freud states that the above proposed amendment accurately conveys the goods it sells under its mark. Moreover, and in compliance with 37 C.F.R. § 2.173, the amendment merely restricts the identifications of goods and does not change them in a way that would make republication necessary. Furthermore, Freud’s proposed amendment will further avoid a finding that Freud’s mark is so common in the industry that it cannot identify a particular source of Freud’s goods or distinguish Freud’s goods from the goods of others, does not function as a trademark, or is generic. Finally, Freud’s “alternative request to amend its description of goods ... is timely inasmuch as its motion was filed before the close of discovery.” *Embarcadero Technologies, Inc. v. RStudio, Inc.*, 105 U.S.P.Q.2d 1825, 1828 (TTAB 2013).

WHEREFORE, Freud requests the Board to amend Reg. No. 2,464,769 in the manner described above if doing so would allow the cancellation to be dismissed.

Dated: January 14, 2016

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,  
HILLIARD & GERALDSON LLP

By: /Jessica A. Ekhoﬀ/

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*Attorneys for Registrant, Freud America, Inc.*

**REGISTRANT'S DECLARATION PURSUANT TO 37 C.F.R. §§ 2.173 and 2.20**

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

/Jessica A. Ekhoﬀ/

**CERTIFICATE OF TRANSMISSION**

I hereby certify that a true and correct copy of the foregoing **FREUD AMERICA, INC.'S SECOND MOTION TO AMEND REGISTRATION** was electronically transmitted to the Trademark Trial and Appeal Board on January 14, 2016.

/Jessica A. Ekhoﬀ/

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of **FREUD AMERICA, INC.'S SECOND MOTION TO AMEND REGISTRATION** was served upon the following by first-class mail, postage prepaid, on January 14, 2016:

Lori S. Meddings  
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/Jessica A. Ekhoﬀ/